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STATUTORY INSTRUMENTS

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**1997 No. 1613**

**PENSIONS**

**The Local Government Pension Scheme  
(Transitional Provisions) Regulations 1997**

<i>Made</i>	- - - -	<i>30th June 1997</i>
<i>Laid before Parliament</i>		<i>3rd July 1997</i>
<i>Coming into force</i>	- -	<i>1st April 1998</i>

The Secretary of State, in exercise of the powers conferred on him by sections 7 and 12 of the Superannuation Act 1972<sup>(1)</sup> and of all other powers enabling him in that behalf, after consultation with such associations of local authorities as appeared to him to be concerned, the local authorities with whom consultation appeared to him to be desirable and such representatives of other persons likely to be affected by the Regulations as appeared to him to be appropriate, hereby makes the following Regulations:—

*Preliminary provisions*

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Transitional Provisions) Regulations 1997.

(2) They shall come into force on 1st April 1998.

(3) They shall apply to the Isles of Scilly as if they were a district in the county of Cornwall and the council of the Isles of Scilly were a council of that district.

**Interpretation**

2.—(1) In these Regulations—

“the 1997 provisions” means the 1997 regulations, these Regulations and the Investment Regulations;

“the 1997 regulations” means the Local Government Pension Scheme Regulations 1997<sup>(2)</sup>;

“the commencement date” means 1st April 1998;

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(1) 1972 c. 11; section 12 was amended by section 10 of the Pensions (Miscellaneous Provisions) Act 1990 (c. 7).

(2) S.I. 1997/1612.

“the common provisions” means regulations 49 and 50 and Part IV of the 1997 regulations and the Investment Regulations;

“the Investment Regulations” means regulations L4 to L8 of the 1995 regulations;

“the old provisions” means the 1995 regulations, the additional regulations specified in Schedule 1 (so far as they relate to the Scheme) and any other regulations relating to the Scheme and made under section 7 or 12 of the Superannuation Act 1972, so far as they continue in effect;

“the replaced provisions” means regulations C1, C21, H1, H3 to H7, M4, M5, M6 and Parts J, K and L of and Schedules C1, K1, K2 and L1 to the 1995 regulations (but not including the Investment Regulations);

“the saved provisions” means the old provisions (other than the replaced provisions), in so far as they remain capable of having effect and subject to the provisions of these Regulations and, in particular, the amendments specified in Schedule 3.

- (2) For these Regulations, a member must be treated as remaining an active member throughout—
- (a) a period of maternity absence (as defined in regulation C6(5) of the 1995 regulations);
  - (b) any period which is treated as membership by virtue of regulation B14(1)(b) of those regulations (absence for illness or injury); and
  - (c) any period as respects which a notice under regulation C7(2) of those regulations (trade disputes absence) is served,

whether or not he or she otherwise would be so treated.

(3) Paragraph (2) shall not apply as respects any part of such a period which falls after a time when the member ceases to be an active member by virtue of regulation B12 of the 1995 regulations (leaving the Scheme).

(4) Subject to the previous provisions of this regulation, expressions used in these Regulations and in the 1997 regulations have the same meaning as in those regulations (unless the context indicates otherwise).

#### *Application of 1997 regulations and old provisions*

#### **Cessation of old provisions for active members**

3.—(1) Any person who is an active member of the Scheme immediately before the commencement date shall continue to be an active member on that date and, subject to the provisions of these Regulations, the old provisions shall cease to apply to him.

(2) Paragraph (1) shall not apply to any person who ceases to be an active member on March 31st 1998—

- (a) by virtue of regulation B12 of the 1995 regulations (leaving the Scheme), or
- (b) by virtue of leaving local government employment on that date and becoming a pensioner member on the commencement date,

and these Regulations shall apply to any such person as if he had already so ceased immediately before the commencement date.

(3) If any person has notified his employer under regulation B12(2) of the 1995 regulations before the commencement date that he wishes to cease to be an active member, but would not (apart from this paragraph) have ceased to be an active member immediately before the commencement date—

- (a) paragraph (1) shall not apply to him,
- (b) he shall cease to be such a member on March 31st 1998, and

(c) these Regulations shall apply to him as if he had already so ceased immediately before the commencement date.

(4) Where (apart from these Regulations) a person away on relevant reserve forces service would be treated under the 1995 regulations as an active member on the commencement date, paragraph (1) shall apply to him, unless as a result of a cancelling notice his relevant reserve forces service on and after the commencement date is not to be treated as such service.

(5) Where such a notice is served, these Regulations shall apply to such a person as if he had already ceased to be an active member immediately before the commencement date.

#### **Deferred members and pensioners: general**

4.—(1) Except where these Regulations provide otherwise, in relation to the persons specified in paragraph (2)—

- (a) the saved provisions shall continue to apply,
- (b) the common provisions shall apply, and
- (c) Part II (except regulations 49 and 50) and Parts III and V of the 1997 regulations shall not apply (except in so far as they affect the common provisions).

(2) Those persons are—

- (a) any person who immediately before the commencement date was a deferred member or a pensioner member and does not on or after that date become an active member;
- (b) any person who is or may become entitled to any benefit under the Scheme in respect of such a person;
- (c) any other person whose entitlement to the payment of any pension or other benefit has arisen before that date or who may become so entitled by virtue of the death of any person who has died before that date.

#### **Re-employment of members (Schedule D5 to the 1995 regulations etc.)**

5. Schedule 2 shall have effect for the purpose of making provision concerning cases where members are re-employed and regulations 3(1) and 4 are subject to that Schedule.

#### *Counting old membership of existing members under 1997 regulations*

#### **Entitlement of active members to count old membership**

6. Any person who continues as an active member of the Scheme on the commencement date by virtue of regulation 3 may count for regulation 9(1)(d) of the 1997 regulations the same length of membership as the total period he was entitled to count under the old provisions immediately before that date (but see regulations 8 to 13 and Schedule 2).

#### **Entitlement of re-employed members to count old membership**

7.—(1) Any member to whom regulation 3 does not apply who becomes an active member again on or after the commencement date may count for regulation 9(1)(d) of the 1997 regulations the same length of membership as he would have been entitled to count for that regulation if regulation 6 had applied to him (but see Schedule 2).

(2) Where paragraph (1) applies to a female member, regulation 9 of these Regulations applies as if she had been an active member immediately before and on the commencement date.

(3) But where paragraph (2) applies the resolution under regulation 9(3) of these Regulations must be passed as soon as is practicable after the member becomes an active member again.

(4) Where paragraph (1) applies to a member who is entitled to count a period of membership under regulation B14(1)(a) of the 1995 regulations by virtue of regulation 11(5)(c) of these Regulations, for paragraph (1) the member shall be deemed to have been entitled to count that period immediately before the commencement date.

### **Membership before 1st April 1972**

8.—(1) If immediately before the commencement date a married member—

- (a) was entitled to count a period of membership before 1st April 1972, and
- (b) had not made a relevant election as respects that period or had ceased to make payments under it,

for regulation 6 that period of membership or, as the case may be, the unpaid part of it must be reduced to 89 per cent. of its length (but see regulation 10).

(2) Paragraph (1) only applies to a female member if she duly elected under regulation E12(1)(b) or (2)(b) of the 1986 regulations (election by wife of dependent and permanently incapacitated husband).

(3) A relevant election is an election wholly or partly in respect of membership before 1st April 1972, made or having effect as if made under regulation C13 of the 1995 regulations or made under regulation C8 of the 1986 regulations (payments to avoid reduction of retirement grant and death grant).

(4) Where a member to whom paragraph (1) would have applied if he had been married immediately before the commencement date marries on or after that date while he is an active member and before he becomes entitled to benefits under the Scheme, paragraph (1) shall apply to him as if he had been married immediately before that date.

(5) Despite anything in these Regulations, a relevant election under which payments were being made immediately before the commencement date shall continue to have effect on and after that date to the extent that it relates to a period of membership before 1st April 1972 (subject to the continuation of payments under it at the same rate as they were made before the commencement date) whether or not immediately before the commencement date the election also related to a later period.

(6) But if a member to whom paragraph (1) would have applied apart from his continuing to make payments under a relevant election until the commencement date (“a continuing member”), fails after that date to complete the payments due under that election in respect of membership before 1st April 1972 (otherwise than by virtue of his death or his becoming entitled to a retirement pension under regulation 27 of the 1997 regulations), paragraph (1) shall apply to him as if he had so ceased before the commencement date.

(7) If a continuing member—

- (a) completes the payments due under the election in respect of that membership, or
- (b) fails to complete them by virtue of his death or his becoming entitled to a retirement pension under regulation 27 of the 1997 regulations,

for regulation 9(1)(d) of those regulations he may count the full period of membership in relation to which he made the election.

(8) For paragraph (1) the unpaid part of the period is the part of it in respect of which payments (including payments by instalments of a lump sum) have not been made.

(9) Where paragraph (1) applies by virtue of paragraph (6) any payments made on or after the commencement date must be taken into account for paragraph (8).

### **Women with membership before 6th April 1988**

9.—(1) Any election or notice made or given (or having effect as if made or given) by a female member under any of the provisions specified in paragraph (2) shall, in so far as it relates to membership after 31 March 1972, cease to have effect.

(2) Those provisions are—

- (a) regulations C13 and C14 of the 1995 regulations;
- (b) paragraphs 1 and 2 of Schedule F1 to those regulations;
- (c) regulation E6(7) of the 1986 regulations.

(3) Where an election made or a notice given by a member to whom regulation 3(1) applies ceases to have effect under paragraph (1), her employing authority must resolve that for regulation 9(1)(d) of the 1997 regulations she may count the period in respect of which the election was made or the notice given as membership after 5th April 1988.

(4) Despite anything in these Regulations, an active member who was eligible immediately before the commencement date to make an election under regulation C13 or C14 of the 1995 regulations as respects membership after 31st March 1972 may, with the agreement of her employing authority, make such an election on or after the commencement date.

(5) An election made by virtue of paragraph (4) has effect for the purposes of this regulation as if it had been made immediately before the commencement date.

(6) A resolution under paragraph (3) must be passed—

- (a) in a case where it is made on the cessation of an election made by virtue of paragraph (4), before the expiry of the period of six months beginning with the day the employing authority agree to the making of the election), and
- (b) otherwise, before 1st November 1998.

### **Certain members with membership before April 1974**

10.—(1) Regulation 6 does not apply to any person to whom regulation E19 of the 1974 regulations applied, but who did not make an election under that regulation before the commencement date.

(2) If such a person continues as an active member of the Scheme by virtue of regulation 3, the period he may count for regulation 9(1)(d) of the 1997 regulations is such period as his appropriate administering authority determine to be appropriate.

(3) A period is only appropriate if the rights in respect of that period under the 1997 regulations will be at least equal in value to those which cease to apply in respect of the member as a result of the old provisions ceasing to apply to him.

(4) If the appropriate administering authority think fit, they must obtain the advice of an actuary appointed by them before making a determination under paragraph (2) and a statement as to the actuarial basis of that advice.

### **Rights under old provisions affecting membership periods (extra payments, absences etc.)**

11.—(1) Any notice given or having effect as if given or deemed to have been given under—

- (a) regulation C5(3) or (4) of the 1995 regulations (payments in respect of long periods away from work),
- (b) regulation C6(3) of those regulations (payments in respect of maternity absence),
- (c) regulation C7(2) of those regulations (payments in respect of absence owing to trade dispute),

(d) regulation C9 of those regulations (payments to increase membership),  
by a member to whom regulation 3(1) applies shall cease to have effect (but see regulation 14).

(2) Where a member to whom paragraph (1) applies has made any payment under regulation C5(3) or, as the case may be, regulation C6(2)(b), C7(2) or C9(2) of the 1995 regulations in pursuance of the notice, the member's appropriate administering authority must calculate the period as respects which payment has been made.

(3) That authority must notify the member of that period as soon as practicable after the commencement date.

(4) The period the member may count for regulation 9(1)(d) of the 1997 regulations includes the period calculated under paragraph (2).

(5) Nothing in these Regulations affects—

- (a) any right of any person who has ceased to be employed before the commencement date to give a notice under regulation C5(3) or C6(3) of the 1995 regulations not later than 30 days after he ceased to be employed,
- (b) any right of any person who has ceased to be employed before the commencement date (or his personal representatives) to give a notice under paragraph (2) of regulation C7 of those regulations within the period mentioned in paragraph (4) of that regulation, or
- (c) if such a person as is specified in paragraph (a) or (b) makes a payment in pursuance of the notice, his right to count the period as respects which the payment is made under regulation B14(1)(a) of those regulations.

(6) In the case of a notice served under regulation C7(2) of those regulations where the member has died, references in this regulation to the member shall be taken where appropriate as references to the member's personal representatives.

### **Rights under Schedule C6 to the 1995 regulations: counting of membership**

**12.—**(1) Where any member to whom regulation 3(1) applies has any rights to make any payments which remain payable immediately before the commencement date by virtue of paragraph 1(3) of Schedule C6 to the 1995 regulations—

- (a) those rights shall cease (but see regulation 15);
- (b) the member's appropriate administering authority must calculate the period as respects which payment has been made and notify the member of that period as soon as practicable after the commencement date; and
- (c) the period the member may count for regulation 9(1)(d) of the 1997 regulations includes the period so calculated.

(2) The period mentioned in paragraph (1)(c) is such period as his appropriate administering authority determine to be appropriate.

(3) A period is only appropriate if the rights in respect of that period under the 1997 regulations will be at least equal in value to the member's rights in respect of the payments he has made under the old provisions.

(4) Where the appropriate administering authority think fit, they must obtain the advice of an actuary appointed by them before making a determination under paragraph (2) and a statement as to the actuarial basis of that advice.

*Augmentation*

**Duty of employing authority to increase total membership of members with membership before the commencement date**

13.—(1) Where a relevant event occurs—

- (a) in relation to a member who is entitled to count membership by virtue of regulation 6 or 7, or
- (b) in relation to a member to whom paragraph 6(6) of Schedule 2 applies as respects a period of membership,

the relevant authority must determine whether his rights under the Scheme in respect of that membership are at least equal in value to the rights to which he was entitled immediately before the commencement date (“his 1995 rights”).

(2) If the relevant authority determine that a member’s 1995 rights were of a greater value than his rights under the Scheme in respect of the membership mentioned in paragraph (1), they must resolve to increase the member’s total membership for the 1997 regulations by an additional period so that his rights under the Scheme in respect of the membership mentioned in paragraph (1) are at least equal in value to his 1995 rights.

(3) But if that additional period would exceed the period which would be the maximum addition under Schedule 4 to the 1997 regulations if the resolution were made under regulation 53 of those regulations—

- (a) it must be reduced to the amount of the maximum addition, and
- (b) the relevant authority must resolve that the appropriate multiplier for one or both of the purposes mentioned in regulation 20(2) and (3) of those regulations (calculations of pensions and retirement grants) must be increased accordingly so that (taking the effects of the reduced additional period and the increase in any such multiplier together) his rights under the Scheme in respect of the membership mentioned in paragraph (1) are at least equal in value to his 1995 rights.

(4) Before—

- (a) making a determination under paragraph (1), or
- (b) determining the additional period under paragraph (2) or the increase in any appropriate multiplier under paragraph (3)(b),

the authority must consider the advice of an actuary if they consider it appropriate.

(5) Where the relevant authority have passed a resolution under paragraph (2), the additional period counts as part of the member’s total period of membership for regulation 9(1)(d) of the 1997 regulations.

(6) The relevant authority must give notice of the making of such a resolution to the member before the expiry of the period of six months beginning with the relevant date.

(7) The relevant authority is—

- (a) in the case of a member who is an active member when the relevant event occurs, his Scheme employer; and
- (b) otherwise, his appropriate administering authority or, if there is more than one, the appropriate administering authority in respect of the employment which he left last.

(8) A relevant event occurs in relation to a member if—

- (a) he becomes immediately entitled to payment of a benefit under the 1997 regulations or any other person whose entitlement is in respect of him becomes so entitled; or

- (b) he applies under section 93A of the Pension Schemes Act 1993 for a statement of entitlement; or
  - (c) he is provided with such information as is mentioned in regulation 119(3) of the 1997 regulations (bulk transfers etc.).
- (9) The relevant date is—
- (a) in the case mentioned in paragraph (8)(a), the date on which the amount of the benefit is determined;
  - (b) in the case mentioned in paragraph (8)(b) or (c), the date the member's membership ceases.

*Special provisions about rights relating to old membership*

**Continuity of elections within regulation 11(1)**

**14.—**(1) The appropriate administering authority of an active member who has given or is deemed to have given a notice which ceases to have effect under regulation 11(1) must inform him in writing that they propose to treat the notice—

- (a) as having been given under the corresponding provision of the 1997 regulations, but
- (b) as if the notice related only—
  - (i) to so much of the amount remaining to be paid in pursuance of the notice as has not been paid before the commencement date, and
  - (ii) to so much of the period as respects which he gave the notice as he may not count by virtue of regulation 11(4), and
- (c) as enabling the member to make additional contributions at the protected rate.

(2) Where a member is so informed, the notice is to be so treated as from the commencement date unless the member (or, in a case where the member has died, his personal representative) has informed his appropriate administering authority in writing before the expiry of the period of three months beginning with that date (or such longer period as they may allow) that he does not wish it to be so treated.

- (3) Any election by a member to whom regulation 3(1) applies which—
- (a) was made or had effect as if made under regulation C24 of the 1995 regulations (additional voluntary contributions), and
  - (b) was in effect immediately before the commencement date,

shall continue to have effect as if it had been made under the 1997 regulations.

(4) The protected rate is the rate at which the member was making payments by virtue of the notice immediately before the commencement date, expressed as a percentage of his remuneration at that time.

**Continuity of rights within regulation 12(1)**

**15.—**(1) Regulation 14 applies in relation to a right which ceases to have effect under regulation 12(1)(a) as if—

- (a) that right arose under a notice which ceases to have effect by virtue of regulation 11(1), and
- (b) the corresponding provision of the 1997 regulations were regulation 55,

(but see the following provisions).

(2) If the right arose under regulation D6, D7 or D8 of the 1974 regulations and immediately before the commencement date the member had the right to make any payments by lump sum payable

by instalments, then for regulation 14 the protected rate is the rate at which he was paying instalments immediately before the commencement date, expressed as a percentage of his remuneration at that time.

(3) Paragraph (1) does not apply in the case of an election made under regulation C8 of the 1986 regulations.

(4) Regulation 55(6) of the 1997 regulations does not apply where regulation 55 applies by virtue of paragraph (1), and instead the member's appropriate administering authority must calculate the amounts of the additional contributions by reference to the preferential rate.

(5) The preferential rate is the rate at which the member was making payments (including payments by instalments of a lump sum) by virtue of paragraph 1(3) of Schedule C6 to the 1995 regulations immediately before the commencement date, expressed as a percentage of his remuneration at that time.

### **Temporary right to pay off liabilities under regulation 15 by capital payment**

**16.—**(1) A member to whom regulation 14 applies by virtue of regulation 15(1), may make an election to make a capital payment in full satisfaction of his liabilities in respect of any period for which he remains liable to make any payment by virtue of regulation 15(1).

(2) Such an election may only be made by notice in writing to the member's appropriate administering authority before the end of the period of six months beginning with the commencement date.

(3) When an administering authority receive such an election they must notify the member of the amount of the capital payment required.

(4) But if that capital payment, when aggregated with the member's total contributions (as mentioned in regulation 16(2) of the 1997 regulations) payable in the tax year in which he makes the election, would exceed the maximum amount so payable by him, such an election is ineffective.

(5) Where following a payment under such an election any body's liabilities in respect of the member under regulation L13 of the 1995 regulations continue by virtue of regulation 20(3), then, despite that regulation, he is entitled to count a period of membership of the same length as if all payments to be made in respect of that period under regulation L13 of the 1995 regulations had been made.

### **Re-employment after return of contributions: service before 1980**

**17.—**(1) This paragraph applies to a member if—

- (a) he left a local government employment after 31st March 1974 and before 1st January 1980 with less than 5 years' total membership;
- (b) a return of contributions for that employment was made to him; and
- (c) he has subsequently begun another local government employment (whether before or after the commencement date) in which he is an active member.

(2) Despite regulation 9(3) of the 1997 regulations, a member within paragraph (1) may count the period for which the contributions were returned, if he pays the appropriate sum to his appropriate fund in his new employment.

(3) That repayment must be made before the expiry of the period of six months beginning with his return to local government employment or such longer period as the authority who returned the contributions and, if different, his appropriate administering authority in his new employment may allow.

(4) The appropriate sum is an amount equal to—

- (a) the amount of returned contributions (net of any tax deducted, but including any increase under regulation K17 of the 1995 regulations or any corresponding earlier provision and any interest paid on the return), plus
  - (b) interest on the amount specified in paragraph (a) for the period beginning with the date the contributions were returned and ending with the date of payment of the appropriate sum.
- (5) Interest must be calculated—
- (a) at 6 per cent. compounded with yearly rests for each complete period of a year ending before 1st April 1977; and
  - (b) at 2.25 per cent. compounded with three-monthly rests for each complete period of three months beginning on or after that date.
- (6) In any case where the whole or part of the period for which the contributions were returned was a period before 1st April 1972 which, if the member had been entitled immediately before the commencement date to count it, would have been reduced under regulation 8, the period which may be counted under paragraph (2) must be similarly reduced.
- (7) The repayment by a member under paragraph (2) in any tax year must not, when aggregated with his total contributions (as mentioned in regulation 16(2) of the 1997 regulations) payable in that tax year, exceed the maximum amount so payable by him.

### **Equivalent pension benefits**

- 18.**—(1) This paragraph applies where—
- (a) when a member left his local government employment he was not entitled in relation to that employment to a retirement pension under regulation 25, 26, 27 or 31 of the 1997 regulations (or any corresponding provision of any earlier regulations) and he receives a return of contributions,
  - (b) the whole or some part of his period of membership was in service in a non-participating employment or in service which relates to employment with a non-local government employer in a non-participating employment,
  - (c) a period of his service in a non-participating employment came to an end by reason—
    - (i) of the repeal of section 56(1) of the National Insurance Act 1965<sup>(3)</sup>, or
    - (ii) of the provisions of regulation 2(2) of the National Insurance (Non-Participation Assurance of Equivalent Pension Benefits) Regulations 1960<sup>(4)</sup> (as modified by regulation 9(2)(a) or (b) of the National Insurance (Non-participation Transitional Provisions) Regulations 1974<sup>(5)</sup>); and
  - (d) at some time during the settlement period (within the meaning of regulation 2 of those Regulations of 1974) he became, and has remained, assured of equivalent pension benefits.
- (2) Where paragraph (1) applies, the member is entitled under the 1997 regulations in relation to that employment to an annual retirement pension payable at the rate of the equivalent pension benefits applicable to him in respect of any period of membership—
- (a) in service in a non-participating employment, or
  - (b) which relates to service with a non-local government employer in a non-participating employment.
- (3) That pension is payable from the first date on which he—
- (a) has attained state pensionable age, and

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<sup>(3)</sup> 1965 c. 51; section 56(1) was repealed by the Social Security Act 1973 (c. 38), section 100(2)(b), Schedule 28.

<sup>(4)</sup> S.I. 1960/1103.

<sup>(5)</sup> S.I. 1974/2057.

- (b) is no longer in any local government employment.
- (4) Where a pension is payable under paragraph (2) to a member who attains state pensionable age for a period of service in a non-participating employment, which counts for the purpose of calculating any benefits payable to the member (other than excepted service), no relevant provision shall apply so as to reduce the pension below the minimum rate of equivalent pension benefits applicable for that period of service under the Insurance Acts.
- (5) A relevant provision is a provision of the 1997 regulations for the surrender, assignment, reduction, termination or suspension of a pension.
- (6) Paragraph (4) does not apply to relevant provision for the reduction, termination or suspension of a pension, which is used for a purpose prescribed by regulations made, or deemed to have been made, under section 57(1)(c) of the National Insurance Act 1965 (equivalent pension benefits).
- (7) For these Regulations and the 1997 regulations, a member to whom paragraph (1) applies shall be treated as having ceased to hold the employment for which he receives a return of contributions on the day before the date of receipt.
- (8) Entitlement to a pension under paragraph (2) must be disregarded—
- (a) for regulations 20(4), (6) and (8), 29, 34(1), 38(5), 42, 45(5), 46(7) and 87(1)(a) of the 1997 regulations, and
  - (b) for determining whether a person is at any time a pensioner member or a deferred member.
- (9) For this regulation a member may count the excess period referred to in regulation 123(1) of the 1997 regulations (service not matched by period credited on transfer into the Scheme).
- (10) In this regulation—
- “non-participating employment” has the same meaning as in section 56(1) of the National Insurance Act 1965;
  - “excepted service”, in relation to any person, is any earlier period of such service as is mentioned in paragraph (4), being service in respect of which—
- (a) a payment in lieu of contributions has been made, or
  - (b) equivalent pension benefits satisfying the requirements of the Insurance Acts have already been assured to him.

#### *Pension funds and authorities*

### **Pension funds and appropriate fund authorities**

- 19.—**(1) The funds which are appropriate pension funds for the old provisions immediately before the commencement date shall continue to be appropriate pension funds for those provisions and shall be the appropriate funds for the 1997 regulations.
- (2) Without prejudice to paragraph (1), any liabilities under the old provisions, as they continue to apply by virtue of these Regulations, shall continue to be payable by the appropriate administering authority from the fund which is the appropriate pension fund as respects those liabilities immediately before that date.
- (3) Where immediately before that date any body is or may become liable to make payments to any such authority or to any pension fund in respect of any liability arising under the old provisions in respect of any person, liabilities in respect of whom continue to arise on or after that date under those provisions, that body shall continue to be the body which is or may become so liable.
- (4) But where, by virtue of Section B of the Table in Part III of Schedule 5 to the 1997 regulations, on the commencement date—
- (a) a fund ceases for any purpose to be the appropriate pension fund, and

(b) does not become the appropriate fund for that purpose under the 1997 regulations, then for paragraphs (1) to (3)—

- (i) the fund which is the appropriate fund under that Section shall be treated as having been the appropriate pension fund immediately before that date, and
- (ii) accordingly the authority maintaining that fund shall be treated as having then been the appropriate fund authority for that purpose.

### **Continuation of employers' liability for certain payments**

**20.**—(1) Nothing in these Regulations affects the liability of any body to make payments under regulation L13 of the 1995 regulations in respect of any member who continues as an active member on the commencement date by virtue of regulation 3(1).

(2) But if the member (or his personal representative) informs the relevant authority under regulation 14(2) (as applied by regulation 15(1)) that he does not wish a right which ceases to have effect under regulation 12(1)(a) to be treated as mentioned in regulation 14(1), regulation L13 of the 1995 regulations shall cease to apply in relation to that member's payments so far as they become due on or after the commencement date.

(3) Where, in a case in which payments continue to be made under regulation L13(1) of the 1995 regulations by virtue of paragraph (1), following an election under regulation 16(1) a member makes a capital payment in full satisfaction of his liabilities in respect of any period, any liabilities which any body has in respect of him under that regulation are not affected.

### **Early retirement of chief officers**

**21.**—(1) Each new authority must determine the amount of its liability under regulation L15 of the 1995 regulations (extra charges resulting from early retirement of chief officers) immediately before the commencement date.

(2) That amount is the aggregate amount—

- (a) of any sums falling to be paid by it under that regulation as respects any such entitlement as is mentioned in paragraph (1) of that regulation which has arisen on or before that date, and
- (b) of the actuarial value of the liabilities which would arise under that regulation (apart from its revocation) as respects any such entitlement which has not so arisen.

(3) Before 1st July 1998 the new authority must—

- (a) pay an amount equal to the amount determined by them under paragraph (1) to the relevant fund, or
- (b) give notice that they wish that amount to be added to the amount required to be paid by them to that fund under regulation 79 of the 1997 regulations (employers' contributions) for the year in which the notice is given.

(4) A notice under paragraph (3)(b) must be given in writing to the authority administering that fund.

(5) If that authority disagrees with the new authority as to the amount determined by them under paragraph (1), that amount must be determined on the advice of an actuary appointed by the new authority.

(6) If the new authority do not comply with paragraph (3), the authority administering the relevant fund may require the new authority to pay interest on the amount due as from 1st July 1998.

(7) That interest must be calculated at one per cent. above base rate on a day to day basis to the date of payment and compounded with three-monthly rests.

(8) In this regulation—

“the new authority” are the body which is the new authority in relation to the member for—

- (a) the Local Government (Retirement of Chief Officers) Regulations 1973(6), or
- (b) the Water Authorities (Retirement of Chief Officers) Regulations 1974(7); and

“the relevant fund” is the pension fund out of which the member’s benefits are payable (or, in a case where entitlement to the benefits has not arisen on or before the commencement date, would be payable if he had become entitled to them).

### *Special cases*

#### **Civil servants transferred to the Environment Agency**

22.—(1) The 1997 regulations apply with the following modifications to a member who is employed by the Environment Agency as a result of a relevant statutory transfer immediately before which he was a pensionable civil servant.

- (2) At the end of regulation 13(2) (exclusions from “pay”) add the words “or
  - (h) the amount of any supplement paid by the Environment Agency in recognition of the difference in contribution rates between members of the principal civil service pension scheme and the Scheme.”
- (3) In regulation 31 (early leavers: deferred retirement benefits and elections for early payment)—
  - (a) in paragraph (2) for the words “his employing authority or former employing authority” substitute the words “the Environment Agency”;
  - (b) in paragraph (4) after the word “Actuary” insert the words “as respects members to whom regulation 22 of the Transitional Regulations applies”;
  - (c) in paragraph (7) for “NRD” substitute the words “60th birthday”;
  - (d) at the end of paragraph (8) add the words “and the Environment Agency”.

(4) The employment with the Environment Agency referred to in paragraph (1) does not count as new employment for regulation 109 (statements of policy concerning abatement of retirement pensions in new employment) or regulation 110 (application of abatement policy in individual cases).

(5) The 1997 regulations and these Regulations shall have effect, so long as the member has no disqualifying break in service, as if they conferred on the member the same rights relating to service overseas as he would have enjoyed if he had remained subject to the principal civil service pension scheme.

(6) For this regulation a member has a disqualifying break in service if there is a continuous period of at least 12 months during no part of which he is an active member.

- (7) A relevant statutory transfer in relation to a member is a transfer of his employment—
  - (a) which took place on 1st April 1996 as a consequence of a transfer of functions on that date to the Environment Agency, or
  - (b) which took place as a consequence of a transfer to the Environment Agency of the undertaking in which he was formerly employed to which the Transfer of Undertakings (Protection of Employment) Regulations 1981(8) apply.

(8) A pensionable civil servant is a person who is employed in the civil service of the State and eligible to be a member of the principal civil service pension scheme.

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(6) S.I. 1973/1260.

(7) S.I. 1974/73.

(8) S.I. 1981/1794; the definition of “undertaking” was amended by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 33.

### Former NHS scheme members

23.—(1) The 1997 regulations apply with the modifications mentioned in paragraphs (3) to (5) to a member—

- (a) who became an active member after being transferred to the employment of a higher education corporation, higher education trust or admission body on or after 1 October 1994 and has remained so with no disqualifying break of service (as defined in regulation 22(6));
- (b) who immediately before that transfer was eligible to be a member of the pension scheme the rules of which are set out in the National Health Service Regulations (whether or not he was); and
- (c) in respect of whom no transfer value was accepted under regulation K13 of the 1995 regulations before 28th March 1997.

(2) For paragraph (1)(c), interim payments of a transfer value are to be disregarded if the final payment of it was not made.

(3) In regulation 31 of the 1997 regulations (early leavers: deferred retirement benefits and elections for early payment)—

- (a) in paragraph (1) for the words “may elect” substitute the words “is entitled”;
- (b) omit paragraphs (2) and (3);
- (c) in paragraph (4) for the words from the beginning to “85 years” substitute the words “If the member has not attained the age of 60”.

(4) Regulation 57 of those regulations (effect of additional periods counted under Chapter III of Part III for older members) does not apply to so much of any period counted under that Chapter as is attributable to contributions paid under a contract—

- (a) which was deemed by paragraph 10(3)(a) of Schedule M2 to the 1995 regulations to have been made pursuant to an election under regulation C9 of those regulations,
- (b) under which contributions were being made immediately before the commencement date, and
- (c) which is treated as continuing under regulation 14.

(5) For regulation 123 of those regulations (rights as to service not matched by credited period), in the case of the transfer mentioned in paragraph (1) member’s transferred-in service means any service which for the National Health Service Regulations the member was entitled to count in relation to employment in which he was an officer (as defined in those regulations) for determining whether he was entitled to a benefit under those regulations, but for no other purpose.

(6) In relation to any person, the National Health Service Regulations means the National Health Service (Superannuation) Regulations 1980(9) or the National Health Service Pension Scheme Regulations 1995(10) as in force immediately before his transfer to local government employment.

### Overseas employment

24.—(1) Where any person to whom regulation 3 of the Local Government Superannuation (Overseas Employment) Regulations 1985(11) applies has not made an election under paragraph (3) of that regulation, the 1997 regulations apply to him with the following modifications.

(2) Regulation 31 (early leavers’ pensions) does not apply unless his total period of membership is at least 5 years.

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(9) S.I. 1980/362 as amended by S.I. 1981/1205, 1982/288, 1765, 1985/39, 1987/2218, 1989/804, 1991/584.

(10) S.I. 1995/300.

(11) S.I. 1985/1922.

(3) For paragraph (2) and the provisions mentioned in paragraph (4) he may count the period of overseas employment towards his total membership.

(4) Those provisions are—

- (a) regulation 19(1) (general qualification for benefits);
- (b) paragraphs (a) and (b) of the definition of “normal retirement date” in regulation 25(4);
- (c) regulation 41(4) and (5) (amount of active member’s surviving spouse’s long-term pension);
- (d) regulation 87(1) (return of contributions).

(5) In paragraph (3) “the period of overseas employment” means any period which, if Part II of the Superannuation (Local Government and Overseas Employment) Interchange Rules 1969(12) had applied to him, would have been a period of overseas employment (within the meaning of those rules).

(6) His preserved benefits (including any increases under the Pensions (Increase) Act 1971(13) and the Pensions (Increase) Act 1974(14)) are subject to reduction, as if regulations D1(2) (with the substitution for “the appointed day” of “6th January 1986”), D1(3) and K1(7) of the 1974 regulations had continued to have effect.

(7) But on a return to local government employment, despite regulation 9(3) of the 1997 regulations, previous service may be counted on repayment of the appropriate sum.

(8) Paragraphs (3) to (7) of regulation 17 apply for the purposes of paragraph (7) above as they apply to a repayment under paragraph (2) of that regulation.

### **Community scheme transferees**

**25.**—(1) Community scheme transferees and their surviving spouses, dependants and children are entitled to such rights under the Scheme as are specified in guidance issued by the Government Actuary.

(2) A Community Scheme transferee is a person—

- (a) who became employed by a Community institution after having been employed in local government employment,
- (b) in respect of whom the scheme managers of the Communities' scheme were paid a transfer value under Chapter IV of Part IV of the Pension Schemes Act 1993(15) or Part K of the 1995 regulations or any corresponding earlier provisions, and
- (c) whose fund authority (as defined in regulation 116 of the 1997 regulations) have been repaid for the credit of their pension fund an amount which in accordance with that guidance may be treated as equivalent to that transfer value.

(3) The rights to which any person is entitled by virtue of guidance under this regulation must not be less valuable than those to which he would have been entitled if regulation K12 of the 1995 regulations still applied to him.

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(12) S.I. 1969/975; amended by the Local Government Superannuation (Overseas Employment) Regulations 1985 (S.I. 1985/1922) in relation to certain employees.

(13) 1971 c. 56.

(14) 1974 c. 9.

(15) 1993 c. 48.

*Supplementary provisions*

**Cost of resolutions**

**26.** Any extra charge on an appropriate fund resulting from a resolution under these Regulations by an authority in relation to any member must be repaid to the fund by that authority.

**Minor and consequential amendments**

**27.** The provisions specified in Schedule 3 shall have effect with the amendments made by that Schedule.

**Transitional and transitory provisions and savings**

**28.**—(1) Schedule 4 shall have effect for the purpose of making transitional and transitory provision and savings.

(2) Nothing in that Schedule affects the general operation of sections 16 and 17 of the Interpretation Act 1978<sup>(16)</sup> (as applied by section 23 of that Act).

**Revocations**

**29.** The replaced provisions are hereby revoked, but subject to the provisions of these Regulations and, in particular, Schedule 4.

Signed by authority of the Secretary of State

30th June 1997

*Hilary J Armstrong*  
Minister of State,  
Department of the Environment

## SCHEDULE 1

Regulation 2(1).

### ADDITIONAL REGULATIONS WHICH ARE “OLD PROVISIONS”

The Local Government Pension Scheme (Local Government Reorganisation in Wales) Regulations 1995(17)

The Local Government Pension Scheme (Pensionable Remuneration Amendment) Regulations 1995(18)

The Local Government Pension Scheme (Augmentation) Regulations 1995(19)

The Local Government Pension Scheme (Appropriate Pension Fund) Regulations 1996(20)

The Local Government Pension Scheme (Environment Agency) Regulations 1996(21)

The Local Government Pension Scheme (Amendment) Regulations 1996(22)

The Local Government Pension Scheme (Crown Prosecution Service) (Transfer of Pension Rights) Regulations 1996(23)

The Local Government Pension Scheme (London Boroughs Children’s Regional Planning Committee) Regulations 1997(24)

The Local Government Pension Scheme (Internal Dispute Resolution Procedure) Regulations 1997(25)

The Local Government Pension Scheme (Amendment) Regulations 1997(26)

The Local Government Pension Scheme (Transfers from National Health Service Pension Scheme for England and Wales) Regulations 1997(27)

## SCHEDULE 2

Regulation 5.

### RE-EMPLOYMENT OF MEMBERS (SCHEDULE D5 TO THE 1995 REGULATIONS ETC.)

#### *Interpretation*

1. In this Schedule—

“active pensioner” means a person who was a pensioner member and an active member immediately before the commencement date and continues as an active member on that date by virtue of regulation 3;

“rejoining pensioner” means a person who was a pensioner member but not an active member immediately before the commencement date, and becomes an active member again on or after that date (otherwise than in an employment which is a new employment to which paragraph 3(1) applies);

“rejoining deferred member” means any person who—

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(17) [S.I. 1995/1985](#).

(18) [S.I. 1995/2249](#).

(19) [S.I. 1995/2953](#).

(20) [S.I. 1996/185](#).

(21) [S.I. 1996/711](#).

(22) [S.I. 1996/1428](#).

(23) [S.I. 1996/2180](#).

(24) [S.I. 1997/218](#).

(25) [S.I. 1997/329](#).

(26) [S.I. 1997/578](#).

(27) [S.I. 1997/598](#).

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- (a) immediately before the commencement date was a deferred member (or would have been apart from being a pensioner member) but was not an active member, and
- (b) becomes an active member again on or after that date.

*Active and rejoining pensioners: general*

2. Despite regulation 3—

- (a) the saved provisions shall continue to apply, and
- (b) Part II (except regulations 49 and 50) and Parts III and V of the 1997 regulations shall not apply,

in relation to an active pensioner or a rejoining pensioner in his capacity as a pensioner member as respects his membership before the commencement date, except where the following provisions of this Schedule provide otherwise.

*Re-employment and abatement*

3.—(1) Where immediately before the commencement date Part I of Schedule D5 to the 1995 regulations (reduction of retirement pensions) applies to any person by virtue of one or more new employments with Scheme employers which continue on that date—

- (a) that Part of that Schedule shall cease to apply to him if after that date there is a period of more than one month during which he is not employed by any of those Scheme employers, and
- (b) if after such a period the member enters employment with any Scheme employer, regulations 109 and 110 of the 1997 regulations (abatement) shall apply instead as respects that employment.

(2) Regulations 109 and 110 of the 1997 regulations shall apply instead of Part I of Schedule D5 to the 1995 regulations to a rejoining pensioner and a rejoining deferred member.

*Combined benefits*

4.—(1) An active pensioner or a former active pensioner may not make an election under Part II of Schedule D5 to the 1995 regulations on or after the commencement date, but he may make an election under regulation 29(1) of the 1997 regulations.

(2) A rejoining pensioner or a rejoining deferred member or a former such person may not make an election under Part II of Schedule D5 to the 1995 regulations on or after the date on which he becomes an active member again, but he may make an election under regulation 29(1) of the 1997 regulations.

(3) Where an election has been made under Part II of Schedule D5 to the 1995 regulations on or after the commencement date by a person who later becomes unable to make such an election by virtue of sub-paragraph (2)—

- (a) that election shall continue to have effect, and
- (b) that Part of that Schedule shall continue to apply,

unless he makes an election under regulation 29(1) of the 1997 regulations affecting the pension in question.

(4) If he does so, regulation 29(1) to (8) of those regulations shall apply and the saved provisions shall cease to apply to him as respects the pension in question.

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### *Separate benefits and dependants' benefits*

5.—(1) This paragraph applies where an active pensioner, a rejoining pensioner or rejoining deferred member or a former such person does not make an election under regulation 29(1) of the 1997 regulations.

(2) Regulation 29(9) of those regulations shall apply in relation to him instead of paragraph 17 of Schedule D5 to the 1995 regulations.

(3) When he dies, regulation 48 of the 1997 regulations (dependants of re-employed pensioners) shall apply instead of Part IV of Schedule D5.

(4) But, if he made an election under paragraph 10(1) of Schedule D5 to the 1995 regulations which continues in effect until his death, regulation 48 of the 1997 regulations shall apply as if the single pension to which he became entitled by virtue of that election was an unreduced retirement pension within regulation 48(1) of those regulations.

(5) Regulation 39 (reduction of death grants: re-employed pensioners) of the 1997 regulations shall apply in relation to him, instead of paragraph 18 of Schedule D5 to the 1995 regulations, unless sub-paragraph (6) applies.

(6) This sub-paragraph applies if when he dies, by virtue of regulation 48 of the 1997 regulations, all the benefits payable on his death (except short-term pensions payable under the old provisions or the 1997 regulations) are calculated on the assumption that he has made an election under regulation 29(1)).

### *Members with preserved rights*

6.—(1) Where immediately before the commencement date there is an election in force in respect of a member's benefits under regulation D12(1)(c) of the 1995 regulations (elections to remain entitled to preserved benefits under regulation D11(1) of those regulations), for these Regulations he shall be treated as a deferred member (and not as an active member) as respects his rights to preserved benefits and the membership in question (but see the following provisions of this paragraph).

(2) Sub-paragraph (1) is without prejudice to regulation 32(5) of the 1997 regulations and applies despite the fact that the member—

(a) continues as an active member by virtue of regulation 3, or

(b) becomes an active member again on or after the commencement date (whether immediately before he does so he is a deferred member or a pensioner member).

(3) Sub-paragraph (1) ceases to apply to a person falling within paragraph (2)(b) as respects any part of his former membership which he elects under regulation 32(1) of the 1997 regulations to aggregate with later membership.

(4) Sub-paragraph (1) also ceases to apply if any person falling within that sub-paragraph makes an election under regulation 29(1) of the 1997 regulations.

(5) Where sub-paragraph (4) applies, the member shall cease to be entitled to count under the saved provisions any period of membership to which he is entitled under the old provisions but as respects which he elected under regulation D12(1)(c) of the 1995 regulations to remain entitled to preserved benefits.

(6) He shall instead be entitled to count that period as a period of membership for the purposes of regulation 9(1)(d) of the 1997 regulations.

(7) But regulations 8 to 12 shall apply as to the adjustment of the length of that period as if it had been a period which he was entitled to count by virtue of regulation 6.

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*Elections for aggregation: members rejoining immediately before commencement*

7. Where immediately before the commencement date a member was eligible to make an election under regulation D12(1)(c) of the 1995 regulations by reason of having re-entered local government employment in the period of three months ending at that time, but had not done so—

- (a) he may make an election under regulation 32(1) of the 1997 regulations at any time whilst he remains an active member in that employment; but
- (b) if he does not make such an election before he ceases to be such a member in that employment, he shall be treated for the purposes of these Regulations as if he had made an election under regulation D12(1)(c) of the 1995 regulations immediately before the commencement date as respects all the membership as to which he could have made that election.

*Limitations on benefits*

8.—(1) Where an active pensioner, a rejoining pensioner or a rejoining deferred member has not made an election under regulation 29(1) of the 1997 regulations—

- (a) Part III of Schedule C5 to the 1995 regulations (limitations on benefits) shall continue to apply as respects the benefits derived from his membership before the commencement date, and
- (b) Schedule 4 to the 1997 regulations shall only apply as respects his membership after that date.

(2) Sub-paragraph (1) ceases to apply to a rejoining deferred member as respects any part of his former membership which he elects under regulation 32(1) of the 1997 regulations to aggregate with later membership; and accordingly Schedule 4 to the 1997 regulations shall apply as respects all benefits payable to or in respect of him in relation to the membership aggregated.

*Continuity of elections by certain rejoining deferred members*

9.—(1) This sub-paragraph applies where a rejoining deferred member—

- (a) becomes an active member again—
  - (i) before the expiry of the period of 12 months beginning with the date he ceased to be an active member, and
  - (ii) before becoming entitled to the immediate payment of benefits under the 1995 regulations,
- (b) immediately before ceasing to be an active member was making payments under an election made under regulation C9 or C13 of the 1995 regulations, and
- (c) elects under regulation 32(1) of the 1997 regulations.

(2) Where sub-paragraph (1) applies the member may pay his employing authority in the employment in which he is an active member an amount equal to the amount which would have been payable if he had continued to be an active member and to make those payments.

(3) That amount must be paid before the expiry of the period of three months beginning with the date he becomes an active member again.

(4) If he pays them that amount—

- (a) that payment shall be treated as having been made under regulation 55 of the 1997 regulations, and

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- (b) that election shall be treated as having been made under that regulation as respects so much of the period of membership as he may not count by virtue of regulation 7 of these Regulations (and accordingly the amounts of his additional contributions shall be determined under that regulation).
- (5) Sub-paragraph (1) does not apply if the member—
- (a) has received a return of contributions which includes additional contributions under regulation C9 of the 1995 regulations made under the election mentioned in sub-paragraph (1)(b), or
  - (b) has requested such a return of contributions.

### SCHEDULE 3

Regulations 2(1) and 27.

#### MINOR AND CONSEQUENTIAL AMENDMENTS

##### *The Local Government Superannuation (Overseas Employment) Regulations 1985*

1. After paragraph (2)(d) of regulation 3 of the Local Government Superannuation (Overseas Employment) Regulations 1985(28) add the words

“and

- (e) the Local Government Pension Scheme Regulations 1997 had had effect with the modifications set out in regulation 24 (overseas employment) of the Local Government Pension Scheme (Transitional Provisions) Regulations 1997.”

##### *The Local Government Superannuation (Miscellaneous Provisions) Regulations 1986*

2. In regulation 4(2) of the Local Government Superannuation (Miscellaneous Provisions) Regulations 1986(29) for “1995” substitute “1997”.

##### *The Local Government Superannuation (Miscellaneous Provisions) Regulations 1987*

3. In regulation 2(2) of the Local Government Superannuation (Miscellaneous Provisions) Regulations 1987(30) for “1995” substitute “1997”.

##### *The Local Government Superannuation (South Yorkshire Transport Limited) Regulations 1993*

4. In the Local Government Superannuation (South Yorkshire Transport Limited) Regulations 1993(31)—

- (a) in the definition of “the principal Regulations” in regulation 1(2) for “1995” substitute “1997”;
- (b) insert at the appropriate place in that regulation the following definition—
  - ““the 1995 Regulations” means the Local Government Pension Scheme Regulations 1995”;
- (c) in regulation 2(1) and (2) for the words “regulation L19” substitute the words “regulation 91”;

(28) S.I. 1985/1922. A relevant amending instrument is S.I. 1995/1019, Sch. M6, paragraph 1.

(29) S.I. 1986/380. A relevant amending instrument is S.I. 1995/1019, Sch. M6, paragraph 5.

(30) S.I. 1987/293. A relevant amending instrument is S.I. 1995/1019, Sch. M6, paragraph 6.

(31) S.I. 1993/2783. A relevant amending instrument is S.I. 1995/1019, Sch. M6, paragraph 10.

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- (d) in regulation 5(1)(b) for the words “regulation B7 of the principal Regulations” substitute the words “regulation B7 of the 1995 Regulations or regulation 5 of the principal Regulations”;
- (e) in regulation 5(1), in the words following paragraph (b), for the words “regulations K20 to K22” substitute the words “regulation 125”;
- (f) in regulation 5(2), for the words “regulation K21” substitute the words “regulation 125”; and
- (g) omit paragraph 5(3).

*The Local Government Superannuation (Greater Manchester Buses Limited) Regulations 1994*

**5.** In the Local Government Superannuation (Greater Manchester Buses Limited) Regulations 1994<sup>(32)</sup>—

- (a) in regulation 2(1) and (2) for the words “regulation L19 of the Local Government Pension Scheme Regulations 1995” substitute the words “regulation 91 of the Local Government Pension Scheme Regulations 1997”;
- (b) in regulation 4 for the words “paragraph 20(2) of Part III of Schedule M4 to the Local Government Pension Scheme Regulations 1995” and “those regulations of 1995” substitute respectively the words “paragraph 6(2) of Schedule 4 to the Local Government Pension Scheme (Transitional Provisions) Regulations 1997” and “the Scheme”.

*The Local Government Superannuation (Greater Manchester Buses North Limited) Regulations 1994*

**6.** In regulation 2 of the Local Government Superannuation (Greater Manchester Buses North Limited) Regulations 1994<sup>(33)</sup> for the words “regulation 2(3) of the Local Government Superannuation (Membership) Regulations 1993” and “the Local Government Pension Scheme Regulations 1995” substitute respectively the words “paragraph 6(2) of Schedule 4 to the Local Government Pension Scheme (Transitional Provisions) Regulations 1997” and “the Scheme”.

*The Local Government (Compensation for Redundancy) Regulations 1994*

**7.** In regulation 2(1) of the Local Government (Compensation for Redundancy) Regulations 1994<sup>(34)</sup>—

- (a) in paragraph (c) of the definition of “eligible employee” for the words from “the occupational” to “the 1995 Regulations”, in the first place they occur, substitute the words “the Scheme”;
- (b) in the definition of “employing body” after the words “1995 Regulations” insert the words “a Scheme employer within the meaning of the 1997 Regulations;”;
- (c) after the definition of “the 1995 Regulations” insert—
 

““the 1997 Regulations” means the Local Government Pension Scheme Regulations 1997;”
- (d) in paragraph (a) of the definition of “qualifying employment” for the words “the 1995 Regulations” substitute the words “the 1997 Regulations”;
- (e) in the definition of “the Scheme” for the words “the 1995 Regulations” substitute the words “the 1997 Regulations”.

<sup>(32)</sup> S.I. 1994/948. A relevant amending instrument is S.I. 1995/1019, Sch. M6, paragraph 11.

<sup>(33)</sup> S.I. 1994/963. A relevant amending instrument is S.I. 1995/1019, Sch. M6, paragraph 12.

<sup>(34)</sup> S.I. 1994/3025; amended by S.I. 1996/456.

8. At the end of regulation 9(4)(b) of those regulations add the words “or, by notice under regulation 26(3) of the 1997 regulations, under regulation 26 of those regulations”.

*The Local Government Superannuation (Amendment) Regulations 1994*

9. In regulation 10(1) of the Local Government Superannuation (Amendment) Regulations 1994(35) for paragraphs (a) to (c) substitute—

- “(a) a body specified in regulation 5(8) of the Local Government Pension Scheme Regulations 1997, which has entered into an admission agreement,
- (b) a body employing persons deemed to be in employment by virtue of regulation 129 or 130 of those regulations, or
- (c) a body which is a company under the control of a body listed in Schedule 2 to those regulations.”.

*The Local Government Pension Scheme Regulations 1995*

10. In regulation D8(5) of the Local Government Pension Scheme Regulations 1995(36) after the words “regulation J3” insert the words “or regulation 97 of the 1997 regulations (first instance decisions)”.

11. In regulation D12 of those regulations—

- (a) in paragraph (1)(a)(i) after the words “regulation C21 of these regulations” insert the words “or regulation 87 of the 1997 regulations”;
- (b) in paragraph (1)(a)(ii) for the words “the regulations” substitute the words “these regulations or regulation 121 of the 1997 regulations”.

12. At the end of regulation D15 of those regulations insert the words “or, as the case may be, the corresponding provisions of the 1997 regulations (in accordance with Schedule 2 to the Transitional Regulations)”.

13. In regulation D17(9) of those regulations—

- (a) after the words “these regulations” insert the words “or the 1997 regulations or the Transitional Regulations”;
- (b) in sub-paragraph (a) after the words “Schedule D5” insert the words “to these regulations or regulation 109 or 110 of the 1997 regulations (abatement) or any provision of the Transitional Regulations relating to those provisions”;
- (c) in sub-paragraph (b) after the words “regulation H4” insert the words “of these regulations or regulation 111 of the 1997 regulations or regulation 114 of those regulations (so far as it relates to regulation 111)”;
- (d) in sub-paragraph (c) after the words “regulation H5” insert the words “of these regulations or regulation 49 of the 1997 regulations”.

14. In regulation D21 of those regulations—

- (a) after the words “Schedule C5 (limitations on contributions and benefits)” insert the words “to those regulations or, as the case may be, the corresponding provisions of the 1997 regulations (in accordance with Schedule 2 to the Transitional Regulations)”;
- (b) for the words “Part H” substitute the words “regulations H2 and H8 of these regulations and regulations 49, 50, 94 to 96 and 111 to 115 of the 1997 regulations”.

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(35) S.I. 1994/3026. A relevant amending instrument is S.I. 1995/1019, Sch. M6, paragraph 13.

(36) S.I. 1995/1019; amended by S.I. 1995/1985, 2249, 2953, 1996/185, 711, 1428, 2180, 1997/218, 329, 578, 598, 954.

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**15.** In regulations E3(1)(b) and (2)(ii) and E4(1)(b) and (3) of those regulations after the words “Schedule D5”, wherever they occur, insert the words “to these regulations or regulation 110 (abatement) of the 1997 regulations”.

**16.** In regulation E6 of those regulations—

- (a) after the words “Schedule D5” insert the words “to these regulations”; and
- (b) at the end add the words “or, as the case may be, the corresponding provisions of the 1997 regulations (in accordance with Schedule 2 to the Transitional Regulations)”.

**17.** In regulation F1(2) of those regulations after the words “Schedule D5” insert the words “to these regulations or, as the case may be (in accordance with Schedule 2 to the Transitional Regulations), regulation 48(6) of the 1997 regulations”.

**18.** In regulation F2(2) of those regulations after the words “Schedule D5” insert the words “to these regulations or, as the case may be (in accordance with Schedule 2 to the Transitional Regulations), regulation 48 of the 1997 regulations”.

**19.** In regulation F4(1)(b) and (2) of those regulations—

- (a) after the words “regulation H6” insert the words “of these regulations or, as the case may be, regulation 50 of the 1997 regulations”; and
- (b) after the words “Schedule D5” insert the words “to these regulations or, as the case may be, regulation 110 (abatement) of the 1997 regulations”.

**20.** In regulation F5 of those regulations—

- (a) in paragraphs (2) and (3)(c) after the words “Schedule D5” insert the words “to these regulations or, as the case may be, regulation 110 (abatement) of the 1997 regulations”; and
- (b) in paragraph (3)(c) after the words “regulation H6” insert the words “of these regulations or, as the case may be, regulation 50 of the 1997 regulations”.

**21.** In regulation F7(1) of those regulations after the words “Except where paragraph (2) applies” insert the words “or the appropriate administering authority determine by resolution that this paragraph shall not apply”.

**22.** At the end of regulation F10 of those regulations add the words “or, as the case may be, regulation 48 of the 1997 regulations (in accordance with Schedule 2 to the Transitional Regulations)”.

**23.** In regulation F11(3) of those regulations—

- (a) after the words “these regulations” insert the words “or the 1997 regulations or the Transitional Regulations”;
- (b) in sub-paragraph (b) after the words “regulation H4” insert the words “of these regulations or regulation 111 of the 1997 regulations or regulation 114 of those regulations (so far as it relates to regulation 111)”;
- (c) in sub-paragraph (c) after the words “regulation H5” insert the words “of these regulations or regulation 49 of the 1997 regulations”.

**24.** In regulation G3(5)(b) of those regulations after the words “Schedule D5” insert the words “to these regulations or, as the case may be, regulation 110 (abatement) of the 1997 regulations”.

**25.** In regulations G6(1)(b) and (3) and G7(1)(b) of those regulations—

- (a) after the words “regulation H6” insert the words “of these regulations or, as the case may be, regulation 50 of the 1997 regulations”; and
- (b) after the words “Schedule D5” insert the words “to these regulations or, as the case may be, regulation 110 (abatement) of the 1997 regulations”.

**26.** In regulation G12 of those regulations after the words “Schedule D5” insert the words “to these regulations or, as the case may be, regulation 48 of the 1997 regulations (in accordance with the Transitional Regulations)”.

**27.** In Schedule A1 to those regulations—

(a) for the definition of “appropriate pension fund” substitute—

““Appropriate pension fund” means the appropriate fund within the meaning of the 1997 regulations;”;

(b) after the definition of “The 1986 regulations” insert—

““The 1997 regulations” means the Local Government Pension Scheme Regulations 1997;”;

(c) after the definition of “Trade dispute” insert—

““The Transitional Regulations” means the Local Government Pension Scheme (Transitional Provisions) Regulations 1997”.

**28.** In paragraph 4 of Schedule B6 to those regulations after the words “Schedule D5”, wherever they occur, insert the words “or, as the case may be, regulation 29(1) to (8) of the 1997 regulations”.

*The Local Government Pension Scheme (Local Government Reorganisation in Wales) Regulations 1995*

**29.** In regulation 1(2) of the Local Government Pension Scheme (Local Government Reorganisation in Wales) Regulations 1995(**37**) after the definition of “the 1994 Act” insert—

““the 1997 regulations” means the Local Government Pension Scheme Regulations 1997;”.

**30.** In regulation 3(6) of those regulations after the words “the principal regulations” insert the words “or, as the case may be, the 1997 regulations”.

**31.** In regulation 4 of those regulations—

(a) in paragraph (1) after the words “the principal regulations” insert the words “or, as the case may be, regulation 77(1) and (3) of the 1997 regulations”;

(b) in paragraph (3) after the words “the principal regulations”, in the first place they occur, insert the words “or, as the case may be, regulation 79 of the 1997 regulations” and at the end add the words “or, as the case may be, regulation 77 of the 1997 regulations”.

**32.** At the end of regulation 5(2) of those regulations add the words “or, as the case may be, regulation 82(4) of the 1997 regulations”.

**33.** In regulation 6 of those regulations—

(a) in paragraph (2) for the words “regulation L10 (other than paragraph (1)(a)) of the principal regulations” substitute the words “regulation 77 (except for the reference in paragraph (1) to 1998) of the 1997 regulations”;

(b) in paragraph (3) for the words “regulation L10 of the principal regulations” substitute the words “regulation 77 of the 1997 regulations”;

(c) in paragraph (4) after the words “the principal regulations” insert the words “or, as the case may be, regulation 77(1) and (3) of the 1997 regulations” and for the words “that regulation”, in both places they occur, substitute the words “those regulations”.

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(37) S.I. 1995/1985.

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*The Local Government Pension Scheme (Environment Agency) Regulations 1996*

**34.** In regulation 1(2) of the Local Government Pension Scheme (Environment Agency) Regulations 1996(**38**) before the definition of “the Active Fund” insert—

““the 1997 regulations” means the Local Government Pension Scheme Regulations 1997;”.

**35.** In regulation 2(1) of those regulations after the words “the principal Regulations” insert the words “and the 1997 regulations”.

**36.** In regulation 6 of those regulations—

(a) in paragraph (1)—

(i) after the words “these Regulations)” insert the words “or, as the case may be, regulation 22 of the Local Government Pension Scheme (Transitional Provisions) Regulations 1997”; and

(ii) at the end add the words “or, as the case may be, Chapter IV of Part IV of the Pension Schemes Act 1993”;

(b) in paragraph (3) after the words “regulation K14(1)(a) of the principal Regulations” and the words “regulation K14(1)(a)” there shall be inserted respectively the words “or, as the case may be, regulation 122(1) of the 1997 regulations” and “or, as the case may be, regulation 122”.

**37.** In regulation 8 of those regulations—

(a) in paragraph (1) after the words “regulation L11(1) of the principal Regulations” insert the words “or, as the case may be, regulation 77(1) and (3) of the 1997 regulations”;

(b) in paragraph (3)—

(i) after the words “the principal Regulations”, in the first place they occur, insert the words “or, as the case may be, regulation 79 of the 1997 regulations”, and

(ii) at the end add the words “or, as the case may be, regulation 77 of the 1997 regulations”.

*The Local Government (Discretionary Payments) Regulations 1996*

**38.** In regulation 2 of the Local Government (Discretionary Payments) Regulations 1996(**39**)—

(a) in paragraph (1)—

(i) in the definition of “employing authority” for the words “Schedule B1 of the LGPS regulations (LGPS employers)” substitute the words “Schedule 2 of the LGPS Regulations (Scheme employers)”;

(ii) for the definition of “the LGPS Regulations” substitute—

““the LGPS Regulations” means the Local Government Pension Scheme Regulations 1997”;

(iii) after the definition of “the 1986 Regulations” insert—

““the 1995 Regulations” means the Local Government Pension Scheme Regulations 1995;

“the Transitional Regulations” means the Local Government Pension Scheme (Transitional Provisions) Regulations 1997;”

(iv) after the definition of “LGPS member” insert—

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**(38)** S.I. 1996/711.

**(39)** S.I. 1996/1680.

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- “pensionable remuneration” means pay within the meaning of regulation 13 of the LGPS Regulations;”;
- (b) at the end of regulation 2(2) of those regulations add the words “or, if the expression is not defined in those regulations, in the 1995 Regulations”;
  - (c) in regulation 2(3) of those regulations after the words “1986 Regulations” insert the words “or, the 1995 Regulations”.
- 39.** In regulation 5 of those regulations—
- (a) in paragraph (1) in the definition of “occupational pension” after the words “LGPS Regulations”, in both places they occur, insert the words “or the 1995 Regulations”;
  - (b) in paragraph (3) for the words “regulation B5(1)” substitute the words “regulation 132(1)”;
  - (c) in paragraph (4) for the words “regulation B5(2)” substitute the words “regulation 132(2)”.
- 40.** In regulation 6(1) of those regulations—
- (a) in sub-paragraph (b)(i) for the words “regulation D6(2)(a)” substitute the words “regulation 26(1)(b)”;
  - (b) in sub-paragraph (e) for paragraph (ii) substitute—
    - “(ii) any periods of superannuable membership (as defined in regulation 10 of the LGPS Regulations) and any increase in membership under regulation 13 of the Transitional Regulations.”.
- 41.** In regulation 7 of those regulations—
- (a) in paragraph (1)(d)(ii) after the words “regulation B10” insert the words “of the 1995 Regulations or regulation 7”;
  - (b) in paragraph (1)(e) after the words “regulation B12” insert the words “of the 1995 Regulations or regulation 8”;
  - (c) in paragraph (2)(c) for the words “the LGPS Regulations”, “paragraph 3 of that Schedule”, “paragraph 4 or 5 of that Schedule” and “paragraph 6(b) of that Schedule” substitute respectively the words “the 1995 Regulations”, “paragraph 3 of Schedule D1 to the 1995 Regulations”, “paragraph 4 or 5 of Schedule D1 to the 1995 Regulations or regulation 22 or 23 of the LGPS Regulations” and “paragraph 6(b) of Schedule D1 to the 1995 Regulations”.
- 42.** In regulation 8(1) of those regulations for the words “to which Part II of Schedule B6 of the LGPS Regulations applies”, “would apply” and “regulation B18” substitute the words “which count as periods of superannuable membership (as defined in regulation 10 of the LGPS Regulations) and any increase in membership under regulation 13 of the Transitional Regulations,”, “would count or, as the case may be, apply or be awarded” and “regulation 52” respectively.
- 43.** In regulations 9(2) and 10(2) of those regulations—
- (a) in paragraph (a) for the words from “D6” to “satisfied” substitute the words “regulation 26”;
  - (b) in paragraph (b) for the words “regulation D6(2)(a)” substitute the words “regulation 26(1)(b)”.
- 44.** In regulation 11 of those regulations—
- (a) in paragraph (1)(c)(ii) for the words “regulation D6(2)” substitute the words “regulation 26”;
  - (b) in paragraph (2)(a) for the words “Part D” substitute the words “Part II”.
- 45.** In regulation 16 of those regulations—

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- (a) in paragraph (3)(a) for the words from “D5” to “D9” and the words from “(including” to the end substitute respectively the words “regulation 25, 26, 27 or 31” and “(including a single pension under regulation 29 of those regulations”);
  - (b) in paragraph (7) for the words from “paragraph 5 of Schedule D5” onwards substitute “no regard shall be had to regulation 110 (abatement) of the LGPS Regulations”.
- 46.** In regulation 17 of those regulations—
- (a) in paragraph (3) for the words “Part D” substitute the words “Part II”;
  - (b) in paragraph (4) for the words “paragraph 4(7) of Schedule B6 to” substitute the words “regulation 9(4) of”.
- 47.** In regulation 18(4) of those regulations for the words “regulation D2” substitute the words “regulations 20 and 54”.
- 48.** In regulation 19 of those regulations—
- (a) in paragraphs (1) and (6) for the words “regulation D14” substitute the words “regulation 33”;
  - (b) in paragraph (3) for the words “regulation D6(2)(a)” substitute the words “regulation 26”.
- 49.** In regulation 20 of those regulations—
- (a) in paragraph (1) for the words “Part F” substitute the words “regulations 40 to 43”;
  - (b) in paragraph (3) for the words from “regulation F6(2)” to “regulation F6(8)” substitute the words “regulation 42”.
- 50.** In regulation 21(2)(b) of those regulations for the words “regulation D7(1)(b)” substitute the words “regulation 27(1)”.
- 51.** In regulation 22(1)(a) and (2)(a) of those regulations for the words “regulation G4 or G7” substitute the words “regulation 45”.
- 52.** In regulation 24(1)(a) and (2)(a) of those regulations for the words “regulation G3, G5 or G6” substitute the words “regulation 46”.
- 53.** In regulation 25 of those regulations—
- (a) in paragraph (3)(b) for the words “regulation D7(1)(b)” substitute the words “regulation 27(1)”;
  - (b) in paragraph (5)(i) for the words “regulation G10(1)” substitute the words “regulation 46(9)”.
- 54.** In regulation 26(1) and (2) of those regulations for the words “regulation G11” substitute the words “regulation 47”.
- 55.** In regulation 33(1)(b) of those regulations for the words “regulation B7” substitute the words “regulation 5”.
- 56.** In regulation 36 of those regulations—
- (a) in paragraph (1)(b) for the words “Part D” and “paragraph 4(1) of Schedule D1 to” substitute respectively the words “Part II” and “regulation 23 of”;
  - (b) in paragraph (1)(c) for the words “relevant period for the purposes of regulation D1 of” substitute the words “final pay period for”.
- 57.** In regulation 39(3)(d) of those regulations for the words “regulation B10(1)” and “regulation B10(2) or B12” substitute respectively the words “regulation 7” and “regulation 7(5) or 8”.
- 58.** In regulation 40 of those regulations—

(a) in paragraph (5) for the words “regulation K21(5) and (6)” substitute the words “regulations 21 to 23”;

(b) in paragraph (7)(b)(ii) for the words “regulation B12” substitute the words “regulation 8”.

**59.** IN regulation 42(1)(c)(i) of those regulations for the words “regulation D6(2)(a)” substitute the words “regulation 26(1)(b)”.

**60.** In paragraph 9 of Schedule 3 to those regulations—

(a) omit the words “Parts D, F and G of”; and

(b) for the words “paragraphs 2 and 3 of Schedule F1 to those Regulations” substitute the words “the provisions of regulation 9 of the Transitional Regulations, by virtue of which her membership is treated as membership after 5th April 1988”.

*The Occupational Pension Schemes (Transfer Values) Regulations 1996*

**61.** In the definition of “base rate” in regulation 1(2) of the Occupational Pension Schemes (Transfer Values) Regulations 1996(**40**) for the word “1995” substitute the word “1997”.

*The Local Government Pension Scheme (Provision of Information, Administrative Expenses and Restitution) Regulations 1997*

**62.—**(1) The Local Government Pension Scheme (Provision of Information, Administrative Expenses and Restitution) Regulations 1997(**41**) apply as respects the 1997 regulations with the following modifications.

(2) For regulation 3 substitute—

“**3.** At the end of regulation 8(9) of the Local Government Pension Scheme Regulations 1997 add the words “or

(c) he is a person about whom information may be given under section 172(1) of the Pensions Act 1995, as it has effect in the case of the Scheme (see regulation 108A)”.”

(3) In regulation 4 for the words from the beginning to the end of paragraph (b) substitute—

“**4.—**(1) After regulation 122 of the Local Government Pension Scheme Regulations 1997 insert—

**“Credited periods for transferring members with mis-sold pension rights**

**122A.—**(1) Regulation 122(3) does not apply where—

(a) the transferring person is a person about whom information may be given under section 172(1) of the Pensions Act 1995 (mis-sold personal pensions), as it has effect in the case of the Scheme (see regulation 108A), and

(b) the transfer value satisfies the conditions specified in paragraph (2).

(2) Those conditions are—

(a) that it is paid by the trustees or managers of the personal pension scheme mentioned in section 172(1)(a)(ii),

(b) that it represents all the rights relating to the member in that scheme,

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(40) S.I. 1996/1847.

(41) S.I. 1997/954.

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- (c) that it is paid on an application made to the appropriate administering authority before the expiry of the period of 12 months beginning with the date the transferring person becomes an active member (or such longer period as they may allow); and
- (d) that in the opinion of the appropriate administering authority it is not less than the restitution amount.

(3) Where paragraph (1) applies, the credited period is the period of membership the transferring person could have counted if he had been an active member throughout the personal pension period.

(4) The restitution amount is the aggregate—

- (a) of the capitalised value (as at the date on which the request for the calculation of the restitution amount is made) of the rights which would have accrued to the transferring person under the Scheme if he had been an active member of the Scheme throughout the personal pension period (including rights under the Pensions (Increase) Act 1971 and the Pensions (Increase) Act 1974),
- (b) of the transfer value paid out of the Scheme to the personal pension scheme, and
- (c) of interest on any such transfer value at such rate as is approved for the time being by the Government Actuary, calculated on a daily basis over the period from the date on which that transfer value was paid out of the Scheme to the date as at which the transfer value is taken to be paid to the Scheme.

(5) The appropriate administering authority must determine the value mentioned in paragraph (4)(a) in such manner as is for the time being indicated in guidance issued by the Government Actuary.

(6) The personal pension period is the period for which the transferring person was eligible to be an active member but in respect of which he made contributions to the personal pension scheme instead.””

(4) In paragraph (c) of regulation 4 of those regulations—

(a) for the words from the beginning to the words “regulation K28” substitute—

“(2) After regulation 108 of the Local Government Pension Scheme Regulations 1997 insert—”;

(b) in the regulation inserted by that provision—

- (i) for “K29” substitute “108A”;
- (ii) for the words “Schedule K2” and “regulation K15A”, wherever they occur (except in the words replaced by paragraph (iii) below), substitute the words “Schedule 5A” and “regulation 122A” respectively; and
- (iii) in paragraph 5 for the words “paragraphs 3 to 5 of Schedule K2” substitute the words “regulation 122A”.

(5) In regulation 5 of those regulations for the words “Schedule C5 to the principal Regulations”, “paragraph 1(5)”, “(5A)”, “K15A”, “the conditions mentioned in sub-paragraph (6)” and “paragraph 1(6)” substitute the words “Paragraph 1 of Schedule 4 to the Local Government Pension Scheme Regulations 1997”, “sub-paragraph (1)”, “(1A)”, “122A”, “the continuity conditions” and the definition of “the continuity conditions” respectively.

(6) In regulation 6 of those regulations—

(a) for the words from the beginning to “Schedule K2” substitute the words—

“6. After Schedule 5 to the Local Government Pension Scheme Regulations 1997 insert—

“SCHEDULE 5A;” and

(b) in the Schedule inserted by that regulation—

(i) in paragraphs 1 and 2 for the words “regulation K29(2)” and “regulation K29(3)” substitute the words “regulation 108A(2)” and “regulation 108A(3)” respectively; and

(ii) omit paragraphs 3 to 5.

#### SCHEDULE 4

Regulation 28

#### TRANSITIONAL AND TRANSITORY PROVISIONS AND SAVINGS

1. In this Schedule—

(a) “the former provisions” means any provisions which by virtue of these Regulations cease to apply to any person at any time, and

(b) references to the revocation of any provision shall be taken to include its ceasing to apply to any person or in any situation (and related expressions shall be construed accordingly).

2.—(1) The substitution of the 1997 provisions for the former provisions does not affect the continuity of the law.

(2) Anything done or having effect as if done under or for the purposes of any of the former provisions has effect, if it could have been done under or for the purposes of the corresponding provision of the 1997 provisions, as if done also under or for the purposes of that corresponding provision.

(3) Any reference, whether express or implied, in the 1997 provisions or any other instrument or document to a provision of the 1997 provisions shall, so far as the context permits, be construed as including, in relation to the times, circumstances and purposes in relation to which the corresponding provision of the former provisions has effect, a reference to that corresponding provision.

(4) Any reference, whether express or implied, in any provision of the former provisions or in any other instrument or document to a provision of the former provisions shall be construed, so far as is required for continuing its effect, as including a reference to the corresponding provision of the 1997 provisions.

(5) Any document made, served or issued after the 1997 provisions come into force in relation to any person which contains a reference to any of the former provisions shall be construed, except so far as a contrary intention appears, as referring or, as the context may require, including a reference to the corresponding provision of the 1997 provisions.

(6) Where any provision of the former provisions (“the re-enacting provision”) re-enacted, with or without modification, a previous provision revoked by the 1995 regulations or any other former provision, then, so far as is necessary to prevent the continuity of the law from being affected, any reference in the 1997 provisions or in any other instrument or document to the re-enacting provision shall, so far as the context permits, be construed as including a reference to that previous provision.

(7) Where by virtue of paragraph 2(6) of Schedule M4 to the 1995 regulations any reference to such a previous provision includes a reference to any earlier provision, sub-paragraph (6) applies so as to include a reference to that earlier provision too.

3.—(1) Where—

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- (a) any provision continues to have effect in relation to any person by virtue of these Regulations, and
- (b) immediately before the commencement date it has effect in relation to him subject to any saving, transitional provision or modification,

nothing in these Regulations affects the operation of that saving, transitional provision or modification.

(2) The revocation by these Regulations of any provision previously revoked subject to savings does not affect the continued operation of those savings, in so far as they remain capable of having effect.

4.—(1) Without prejudice to the generality of the previous provisions of this Schedule, nothing in the 1997 provisions affects the operation of paragraph 12 of Schedule M4 to the 1995 regulations (continuation of savings for gratuities and policy schemes affected by local government reorganisation etc.), so far as it remains capable of having effect.

(2) But nothing in sub-paragraph (1) affects any transfer of responsibilities or anything else which has affected the matters mentioned in that paragraph since it came into force.

5. Where any person is treated by paragraph 15 of Schedule M4 to the 1995 regulations as having elected under regulation D12(1)(c) of those regulations to remain entitled to preserved benefits, he shall be so treated for the purposes of the 1997 provisions also.

6.—(1) Nothing in the 1997 provisions affects any agreement made under regulation B3 of the 1986 regulations which immediately before the commencement date was treated as an admission agreement under paragraph 20 of Schedule M4 to the 1995 regulations.

(2) But where—

- (a) immediately before 1st January 1994 the employing body was a company under the control of a body listed in Schedule 2 to the 1997 regulations, and
- (b) that body ceases to be such a company,

then—

- (i) the admission agreement shall cease to have effect when the body so ceases, and
- (ii) any employee of the employing body shall no longer be eligible to be an active member.

7. These Regulations do not affect the time before or after which any period of membership is to be treated as falling, except as provided in regulation 9(3).

8. Despite regulation 4, regulation 93 of the 1997 regulations shall not apply to any pension payable to any person under the saved provisions.

9.—(1) If any person to whom a relevant benefit is or may become payable would, apart from this paragraph, be placed in a worse position in relation to that benefit than that he would have been in had these Regulations not been made and makes an election under this paragraph, these Regulations shall have effect, in relation to him and to that benefit, as if they had provided for his position to continue without amendment (but see paragraph (4)).

(2) An election under paragraph (1) must be made by notice in writing given to the appropriate administering authority before the expiry of the period of six months beginning with the commencement date.

(3) In this regulation—

“relevant benefit” means a benefit payable to, or in respect of, a person who before the commencement date—

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- (a) left an employment in which he was an active member (whether or not he has subsequently become an active member again); or
  - (b) died while in such employment; and
- “benefit” includes a return of contributions and any pension payable to a widow, widower or any dependant by virtue of a surrender.
- (4) If an election under paragraph (1) is made in relation to a benefit in respect of a person who is an active member, or subsequently becomes an active member again—
- (a) the election shall have effect in relation to the benefit only to the extent that it accrues or has accrued by virtue—
    - (i) of periods of membership before he left the employment referred to in paragraph (3)
      - (a) (or, if he left such an employment more than once, the last time he left before the commencement date); or
      - (ii) of contributions paid in respect of such periods of membership; and
    - (b) in determining entitlement to, or the amount of, the benefit to that extent, he shall be treated as if he had never become an active member again at any time after he so left (but without prejudice to the application of this paragraph);
- and these Regulations shall have effect accordingly.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are supplemental to the Local Government Pension Scheme Regulations 1997 (S.I. 1997/1612) (“the 1997 Regulations”) which set out the pension arrangements of the Local Government Pension Scheme (“the Scheme”) from 1st April 1998 (“the commencement date”). These Regulations make provision for the transition from the arrangements for the Scheme set out in the Local Government Pension Scheme Regulations 1995 (“the 1995 Regulations”), and the other regulations specified in Schedule 1 to these Regulations, to those set out in the 1997 Regulations. They revoke provisions of the 1995 Regulations relating to administration of the Scheme (which are replaced by provisions in Part IV of the 1997 Regulations) for all members of the Scheme and revoke the other provisions for those who are members in their employment on that date (“active members”). But they provide for the continuation of certain provisions of the 1995 Regulations for members who are not then active members.

Regulation 3 transfers the active members from the arrangements under the 1995 Regulations to those under the 1997 Regulations.

Regulation 4 provides that the 1995 Regulations continue to apply to deferred and pensioner members who do not become active members again, except for provisions about administration, which are replaced by provisions in the 1997 Regulations.

Regulation 5 and Schedule 2 make provision about the treatment of deferred and pensioner members who are re-employed.

Regulations 6 and 7 provide for active members and re-employed members to be able to count for the 1997 Regulations Scheme membership from before the commencement date.

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Regulations 8 and 9 modify the arrangements under the 1995 Regulations for counting certain earlier membership for the purposes of calculating benefits for surviving spouses of members.

Regulation 10 makes provision as to certain members with unexercised rights under previous regulations affecting the Scheme.

Regulations 11 and 12 make provision for the cessation of certain existing rights to make additional payments under the Scheme, subject to regulations 14 to 16.

Regulation 13 obliges employers to augment members' membership, where their rights under the 1997 Regulations are less valuable than under the 1995 Regulations.

Regulations 14 to 16 enable the rights to make payments, which otherwise cease to have effect under regulations 11 and 12, to continue where the member wishes. Regulation 17 enables a member to repay a former return of contributions in some circumstances and thereby to count the relevant membership, and regulation 18 makes provision as to equivalent pension benefits under the National Insurance Acts.

Regulation 19 provides for continuity of funds and authorities for the Scheme. Regulations 20 and 21 provide for certain authorities to continue to be liable for certain payments as respects employees who are members.

Regulations 22 to 25 continue the special position of certain groups of members as to whom the Scheme has effect with particular modifications.

Regulations 26 to 29 contain supplemental provisions.

Schedule 3 contains minor and consequential amendments connected with the transition between the old provisions governing the Scheme and the new ones.

Schedule 4 provides for the continuity of the application of the Scheme provisions and contains general savings and transitional provisions.